



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/755,534

01/12/2004

Armin Bolz

298-225

1318

28249 7590 08/14/2007  
DILWORTH & BARRESE, LLP  
333 EARLE OVINGTON BLVD.  
SUITE 702  
UNIONDALE, NY 11553

EXAMINER

KAHELIN, MICHAEL WILLIAM

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

08/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/755,534

Applicant(s)

BOLZ, ARMIN

Examiner

Michael Kahelin

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-32 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Thompson (US 6,083,248, hereinafter "Thompson").
4. In regards to claims 1 and 17, Thompson discloses providing at least one sensor for determining a parameter that characterizes cardiac activity (Fig. 6, elements 116 and 118); transmitting the parameter to a stationary server which stores the parameter and adapted so that the parameter can be downloaded from the server with an internet browser (Figs. 3 and 4, elements 20', 30, 32, 34, and 50; col. 5, line 56; col. 14, lines 47-59; and col. 15, lines 20-29); automatically evaluating the parameter; and generating

Art Unit: 3762

an alarm signal remotely (col. 16, lines 7-41). Please note that Thompson discloses at column 5, line 56 that the communication protocol can be email based. As such, emails are sent to and from stationary servers and can be accessed via browser-based email services. Further, Figure 4 shows a server device being stationary.

5. Alternatively, Thompson discloses the essential features of the claimed invention except for explicitly indicating that the parameter is stored in a server such that the parameter can be downloaded with the aid of an internet browser. It is well known in the art to provide patient-specific diagnostic data via servers that can be accessed with internet browsers to allow multiple clinicians to access patient information from a variety of locations with ubiquitous equipment. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Thompson's invention by providing patient-specific diagnostic data via a server that can be accessed with internet browsers to allow multiple clinicians to access patient information from a variety of locations with ubiquitous equipment.

6. In regards to claims 2, 3, and 18, the anomaly is fibrillation (col. 16, line 10) and the parameter is a fibrillation parameter (ECG; col. 15, line 24).

7. In regards to claim 4, the sensor is "in the region of" an abdominal band (col. 1, line 56).

8. In regards to claims 5 and 21, the acquisition step and evaluation step are spatially separated because the sensors (116 and 118) are spatially separated from all other elements (Fig. 6).

Art Unit: 3762

9. In regards to claims 6 and 22, the acquisition and evaluation are performed adjacent to each other (320) and transmitted to a different location (332).
10. In regards to claim 7, measuring data is transmitted in a wireless fashion to a signal evaluation unit (col. 16, line 13).
11. In regards to claims 8, 11, 12, 13, 19 and 26, an acoustical or optical alarm/flag is generated and wirelessly transmitted short-range or long-range (26 and col. 16, line 40), and activated by a signal generator because some sort of signal is required to generate an electrical alarm.
12. In regards to claims 10, 15 and 25, Thompson further discloses storing the parameter (col. 15, line 26) and transmitting the stored value with a flag signal (col. 16, line 19).
13. In regards to claims 20, 28 and 32, the device is configured as a mobile defibrillator (col. 16, line 11) having a voltage generator, control unit, sensor, signal evaluation unit, signal transmitter, and at least two electrodes (Fig. 6).
14. In regards to claim 23, the sensor is arranged adjacent or separate from the evaluation unit (Fig. 6).
15. In regards to claim 24, the sensor and signal evaluator are connected via wireless link (332).
16. In regards to claim 29, the alarm signal comprises information on the current location of the patient (col. 16, line 18).
17. In regards to claim 30, the long-range transmission is by telephone (104d).

Art Unit: 3762

18. In regards to claims 9, 16, 27, and 31, Thompson discloses automatically activating a defibrillator; remotely changing a defibrillator's settings and programming; and determining patient motion via an activity monitor (322) and GPS system (104c). Because the activity monitor is used to adjust the V-A escape interval (col. 10, line 1), the motion information is inherently used to determine if a limiting value is exceeded. Further, because the settings of the defibrillator may be automatically changed (col. 16, line 37), the defibrillator can inherently be activated by the alarm signal.

19. Alternatively, Thompson discloses the essential features of the claimed invention except for an alarm signal that initiates activation of a defibrillator or using motion information to characterize cardiac activity of a patient. It is well known in the art to remotely initiate activation of a defibrillator along with an alarm signal to allow a trained professional to initiate therapy in a patient and to use motion information to characterize cardiac activity to provide accurate analysis of the heart based on the demand created by the body. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Thompson's invention by remotely initiating activation of a defibrillator with an alarm signal to allow a trained professional to initiate therapy in a patient and to use motion information to characterize cardiac activity to provide accurate analysis of the heart based on the demand created by the body.

***Response to Arguments***

19. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection, necessitated by amendment.

***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Christopherson et al. (US 2002/0045804) and Webb et al. (US 6,599,250) are two of many teachings of providing patient data to servers accessible with internet browsers.

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3762

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kahelin whose telephone number is (571) 272-8688. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWK

*MWK*  
8/19/07

*u*  
GEORGE R. EVANISKO  
PRIMARY EXAMINER

*e/9/11*